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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,680	11/07/2005	Klaus Russke	BU-07PCT	2233
40570	7590	02/26/2009	EXAMINER	
FRIEDRICH KUEFFNER			PEDDER, DENNIS H	
317 MADISON AVENUE, SUITE 910				
NEW YORK, NY 10017			ART UNIT	PAPER NUMBER
			3612	
			MAIL DATE	DELIVERY MODE
			02/26/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/531,680	RUSSKE, KLAUS	
	Examiner	Art Unit	
	Dennis H. Pedder	3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 February 2009.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 3-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,3-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. The finality of the previous office action is withdrawn and prosecution reopened in view of the newly cited art below.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

“The course” is indefinite as it lacks antecedent and clear meaning.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3-5, 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schutt et al. US 6,467,832 in view of either Roth et al., US 5,979,970 or Roth, US 6,053,560, previously cited.

6. Schutt et al. have the rear part 4 independently movable as seen in figures 4-6, single front roof part 3 connected with swivel arms 11,12 located partially behind the front and beneath the rear roof part, and vertical lowered position of the front roof part. The rear roof part provides space for passage of the front roof part and is below the windshield, or height of the closed roof, when lowered.

7. Schutt et al. lack the claimed dual rigid front roof parts, movable to overlapping position, taught by either Roth et al. or Roth prior to the invention of applicant. It would have been obvious to one of ordinary skill to provide in Schutt et al. overlapping roof parts also movable to vertical position as taught by Roth et al. or Roth in order to cover a larger passenger compartment.

8. As to claim 4, arms 11, 12 form a four bar linkage.

9. As to claim 5, see figure 7 of Schutt et al.

10. As to claim 8, the rear roof part overlaps at window 5, figure 8.

11. Claims 9-10 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Schutt et al., US 6,467,832 in view of Schutt et al., US 6,572,175 or Antreich.

12. Claim 9 lacks the vertical stored position of the front roof parts as well as the final position below the beltline. Both secondary references above have the dual rigid front roof parts, movable to overlapping position, and stored in horizontal position. It would have been obvious to one of ordinary skill to provide in Schutt et al. dual front roof parts as taught by either Schutt et al. (175) or Antreich in order to cover a larger passenger compartment.

13. Claims 6, 7, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schutt et al. in view of Roth et al. or Roth as applied to claim 1 above, and further in view of Antreich.

14. As to claim 6, see figure 6 of Antreich.

15. As to claim 7, see figures 12,13 and accompanying discussion.

16. It would have been obvious to one of ordinary skill to provide in the references above a rear roof part held erect over the collapsed front roof parts as well as covering the rear passage

opening as taught by Antreich in order to eliminate the cover 7 of Schutt et al. (832) and thus reduce expense of manufacture.

17. As to claim 11, the swivel arms of Antreich are substantially face to face in figures 5-6. Formation of the surrounding underlying covering of Antreich in two parts is deemed to be an obvious expedient in the art to enable smaller presses or molds for commonly known trim pieces. Applicant may seasonably challenge, for the official record in this application, this and any other statement of judicial notice in timely manner in response to this office action. Please specify the exact statement to be challenged. Applicant is reminded, with respect to the specific challenge put forth, of the duty of disclosure under Rule 56 to disclose material which is pertinent to patentability including claim rejections challenged by applicant.

18. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schutt et al. in view of Roth et al. or Roth as applied to claim 1 above, and further in view of Weissrich et al.

19. It would have been obvious to one of ordinary skill to provide in the references above computer control for roof movement as taught by Weissrich et al. in order to control precisely.

Response to Arguments

20. Applicant's arguments with respect to claims above have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (571) 272-6667. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dennis H. Pedder/
Primary Examiner, Art Unit 3612

Dennis H. Pedder
Primary Examiner
Art Unit 3612

DHP
2/25/2009